

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2013-20

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACT 1
NEGOTIATED SERVICE AGREEMENT

(December 5, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1553.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service notice of filing a new Global Reseller Expedited Package (GREP) contract.² Global Reseller Expedited Package contracts provide discounted prices for Express Mail International (EMI) and/or Priority Mail International (PMI) to resellers (sales agents) who in turn market EMI and PMI at discounted prices to their customers, particularly small and medium-sized businesses. Notice at 4.

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Contracts 1 product (MC2010-21) to the competitive products list, and

¹ PRC Order No. 1553, Notice and Order Concerning an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, November 26, 2012.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 21, 2012 (Notice).

³ See Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010 (Request).

included a GREP contract (CP2010-36) within the product.⁴ That GREP contract serves as the “baseline” agreement for purposes of functional equivalency analysis with respect to future GREP contracts. Notice at 1. In Order No. 755, the Commission included an additional GREP contract (CP2011-65) within in the Global Reseller Expedited Package Contracts 1 product.⁵ The Commission subsequently approved two additional GREP contracts that were the subject of Docket Nos. CP2012-14 and CP2012-21 for inclusion within the product.⁶

The instant contract is the successor to the GREP contract filed in Docket No. CP2012-21. Notice at 3. The GREP Contract filed in CP2012-21 will be terminated on the day prior to the effective date established for the instant contract. *Id.* The effective date of the instant contract will be established by Postal Service notice to the reseller. *Id.*, Attachment 1 at 5.

The Postal Service states that the instant GREP contract is functionally equivalent to the baseline contract and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 7. The Postal Service therefore requests that the instant GREP contract “be added to the GREP Contracts 1 product grouping.” *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the instant GREP contract, and the supporting financial model filed under seal that accompanied the Notice. Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears the negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

⁴ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁵ PRC Order No. 755, Order Approving Additional Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket No. CP2011-65, June 30, 2011. The GREP contract approved in Order No. 755 is the successor to the contract that was the subject of Docket No. CP2010-36. Notice at 2.

⁶ PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; and PRC Order No. 1337, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012.

Functional Equivalence. The Postal Service states that the instant contract is “substantially similar to the contract filed in Docket No. CP2010-36,” which serves as the baseline agreement. *Id.* at 3. More specifically, the Postal Service asserts that the “functional terms” of the contract “are the same as those of the [baseline] agreement,” and that the instant contract “shares the same cost and market characteristics,” as well. *Id.* at 4.

However, the Postal Service identifies differences between the instant contract and the baseline agreement, including: in Article 3, Qualifying Mail, revising the definition of qualifying mail to exclude EMI and PMI flat-rate items, and items destined, or addressed, to certain countries or persons, respectively; in Article 7, Postage Updates, concerning the effect of generally applicable prices on contract prices; and, the addition of Article 32, Intellectual Property, Co-Branding, and Licensing; Article 33, Effective Date; Article 34, Limitation of Liability; and, Article 35, Warranties and Representations. *Id.* at 5 - 7.

Despite these differences, the Postal Service maintains that nothing detracts from the conclusion that the instant contract is “functionally equivalent in all pertinent respects.” *Id.* at 7. [citation omitted] The Public Representative agrees and concludes that the instant contract is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. Pursuant to section 3633(a), prices for competitive products must cover each product’s attributable costs, not result in subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In this proceeding, the Postal Service’s financial model indicates that the negotiated prices in the instant contract will cover costs, as well as exceed the minimum cost coverage approved in Governor’s Decision No. 10-1. Based upon a review of that model, it appears that the negotiated prices satisfy the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

James F. Callow
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6839
callowjf@prc.gov